



Office of the Ohio Consumers' Counsel

**Before
The Ohio Senate
Energy and Public Utilities Committee**

**Opponent Testimony on Substitute Senate Bill 102
By
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**On Behalf of the
Office of the Ohio Consumers' Counsel**

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Hello Chair Reineke, Vice-Chair McColley, Ranking Member Smith, and Committee members. I hope you and your colleagues are well.

Thank you and the bill sponsor (Senator Wilkin) for this opportunity to present opponent testimony on Substitute Senate Bill 102.

OCC presented testimony opposing SB 102 on June 20, 2023, identifying its concerns with the proposed legislation. Since then, some improvements have been made to the bill, which we thank Senator Wilkin for.

However, the bill continues to fall short of providing positive regulatory reform that protects consumers. We continue to oppose the bill because the bill's detriments for consumers outweigh its benefits, even with recent changes. Instead, OCC is supportive of the type of pro-consumer regulatory reform found in Senator Romanchuk's S.B. 143, or the legislative proposal attached to OCC's June 20, 2023 testimony.

Here are the changes to Substitute Bill 102 that improve, but still do not fix the bill:

- (1) Substitute Senate Bill 102 requires some changes to the true up process, including that the PUCO exclude investment that is not found to be "used and useful" (Lines 659-662). That is an improvement, but the bill still allows the PUCO to set initial rates to consumers based on investment projected to be used and useful. It would be far better for consumers to fix the problem up front, and not through a true up. That would mean not allowing a projected used and useful rate base (or projected expenses and revenues) to calculate consumers' utility rates in the first instance. Consumers have not necessarily done well when ratemaking is based on utility projections.

- (2) Unfortunately, the bill still requires consumers to pay a lot for gas infrastructure tied to economic development. But the new changes do exclude prior provisions charging consumers for expanded costs for gas infrastructure tied to future economic development projects. And the bill excludes earlier provisions requiring consumer funding for economic development projects that have received remediation funding. We appreciate these changes that do not add to the many expansive proposals we have seen for collecting economic development costs from utility consumers. The highest priority must be keeping consumers' utility rates affordable.
- (3) The substitute bill prohibits temporary rate increases to consumers associated with the interim distribution rider (Lines 1137-1140). That change is welcome. However, the bill still permits utilities to use the interim distribution rider to increase consumers' electric distribution rates by up to 12% in total over a three-year period (Lines 771-786). And utilities would also be free to collect other, uncapped electric distribution rate increases from consumers, making the notion of a "cap" on distribution increases to consumers illusory.
- (4) The substitute bill continues to allow the recovery of direct costs through a utility's electric standard service offer but has gotten rid of the provision allowing the recovery of indirect costs (Lines 1889-1892). "Direct" costs are not defined under the bill, however, which allows too much leeway for marketers. Allowing add-ons to the electric utility's standard service offer caters to marketers by increasing the utility's standard offer which is a protective element of competition for utility consumers. This pro-marketer provision should be rejected entirely. Neither direct nor indirect costs should be added to the utilities' electric standard offer.

OCC continues to oppose this Legislation

While we appreciate some of the changes made to SB 102, the changes have not transformed the legislation into the type of regulatory reform that is beneficial to consumers. Substitute Senate Bill 102 is full of anti-consumer provisions that include:

- Severe and unneeded limitations on discovery in all standard rate cases hampering the truth finding process that is a part of our American system of justice (Lines 1192-1220);
- Electric utilities can continue to charge consumers under PUCO approved electric security plans over the next 3 to 10 years (Lines 1870-1876);
- Codifying the limitation of utility refunds to consumers for illegal charges, preventing the Ohio Supreme Court or a future PUCO from overturning current refund practice (Lines 95-103);

- Changing standard ratemaking to the detriment of consumers by allowing fully projected test year, rate base, revenues and expenses in electric distribution cases (Lines 644-655);
- Add-on rider charges that increase consumer electric bills like the Interim Distribution Mechanism (Lines 771-870) and economic development-related riders for utility transmission projects (Lines 1950-1957);
- Band-aid provisions for natural gas teaser (“introductory”) rates (Lines 3001-3049) when gas (and electric) teaser rates and door to door sales should be banned altogether. Teaser rates lead to confusion and higher charges to consumers; and
- Reduced rates for big utility customers for electric transmission costs that may be at the expense of other utility consumers, including residential consumers (Lines 1921-1925).

In sum, the consumer risks in Substitute Senate Bill 102 greatly outweigh the consumer benefits. For consumer protection, please do not enact Substitute Senate Bill 102 as currently drafted.

Thank you for your consideration.